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September 22, 1994

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SEP 22 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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Mr. William F. Caton **DOCKET FILE COPY ORIGINAL**  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: Ex Parte Presentation  
CC Docket No. 92-166

Dear Mr. Caton:

On September 21, 1994, the undersigned counsel for Mobile Communications Holdings, Inc. (MCHI) and Gerald Helman, Vice President, International Policy and Programs, MCHI, met with Richard Metzger, Cecily Holiday and Anna Gomez. The discussion focused on the "Joint Proposal and Settlement Agreement" in CC Docket 92-166 to which MCHI is a party. Attached hereto are written materials that were provided to Commission Staff at the meeting.

Respectfully submitted,

  
Jill Abeshouse Stern

cc: Richard Metzger  
Cecily Holiday  
Anna Gomez

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SUMMARY OF MCHI'S FEEDER LINK PRESENTATION

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- Ellipso is one of three MSS systems (MCHI's ELLIPSO, Loral Qualcomm Partnership's GLOBALSTAR, and Constellation Communication's ARIES) that finds that its concept for distributed, global mobile satellite service is only technically and operationally practical if its feeder links (those links connecting the satellite with the ground network entry point) operate at frequencies below Ka band. MCHI joins LQP and Constellation in seeking C-band spectrum for MSS feeder links and intends to use and, as appropriate, share any adequate C-band spectrum made available.
- MCHI furthermore seeks, and it is our understanding that Loral Qualcomm Partnership and Constellation Communications also support, the allocation of feeder link uplink and downlink spectrum in both C and Ku band to MSS feeder link use. We believe such action would designate adequate resource for MSS use for the next decade. It would also simplify feeder link band sharing, and make available more bandwidth for feeder links than is available in only C-band.
- For uplinks, MCHI has identified the Aeronautical Radio Navigation Service bands (5000 - 5250 MHz in C-band and 15.4 - 15.7 GHz in Ku band) as good candidates for co-primary MSS feeder link uplinks, based upon simpler coordination requirements in these bands and the significant difficulty in finding other uplink spectrum below Ka band.
- For downlinks, we have also identified the international allotment plan uplink bands (6725 - 7025 MHz in C-band and 12.75 - 13.25 GHz in Ku band) as good candidates for MSS downlinks, based upon recent ITU studies showing the feasibility of using these bands.
- For any C or Ku band proposed for allocation to MSS feeder link use, such as, for example, the bands cited above, we urge that the FCC seek a co-primary MSS feeder link allocation in the appropriate direction for the complete band.
- MCHI seeks at least 300 MHz of spectrum in C or Ku bands for each feeder link direction in order to implement the technological and economic efficiencies inherent in the Ellipso System. These include a reduced complement of ground terminals — Ellipso requires only 3 or 4 in the United States — and low cost service to handheld terminals. The availability of only 250 MHz of feeder link spectrum in either direction would not permit us to realize our objectives and vision for the Ellipso System.

BRIEFING PAPER  
FINANCIAL QUALIFICATIONS ISSUE

- The September 9, 1994 "Joint Proposal and Settlement Agreement" reflects agreement among four of the five Big LEO applicants with respect to a financial qualifications standard that comports with the financial realities of financing a global satellite system and will assure that licensees move forward expeditiously with system implementation. Loral did not object to the financial standard in its September 13 filing.
- The Agreement provides for a showing of financial preparedness at the time of licensing, with a requirement to demonstrate strict financial qualifications for 25% of the constellation one year after grant. In addition, permittees must meet strict milestone schedules for construction, launch and system operation.
- The financial standard set forth in the Agreement benefits both large and small companies, reflects an accommodation reached after extensive negotiations between the parties, and is a material condition of the Agreement that the Commission should hesitate to reject.
- Under the spectrum sharing approach set forth in the Agreement, all of the LEO systems can be accommodated so any concern about spectrum warehousing is mooted. Unlike situations involving limited orbital slots and mature satellite industries (where strict financial standards have been applied), all of the LEO systems will have sufficient spectrum to begin operations under the proposed sharing plan.
- The proposed financial standard is consistent with Commission precedent relating to new satellite services, including NVNG MSS, RDSS, DBS and private international satellite systems. In the satellite field, the Commission has historically provided a flexible financial standard tailored to the particular circumstances to facilitate implementation of new, innovative satellite services.
- Application of the strict domsat standard would discriminate against small businesses which do not typically have a balance sheet reflecting assets from other lines of business unrelated to the satellite project. As a practical matter, established, large corporations would only need display a balance sheet with no irrevocable commitment. In contrast, small companies would be required to demonstrate irrevocability. In other words, the playing field would not be level. The Commission should not foreclose participation by small and minority businesses, which participation is a national policy objective supported consistently by Congress and successive administrations.

- As a practical matter, if the Commission is to expedite licensing of the Big LEO systems, it will not be practicable to impose a strict domsat standard at this late date, requiring fully negotiated irrevocable debt or equity commitments (from companies that do not intend to rely on a balance sheet test) within a short amendment period (e.g. 30 days.) Loans or equity commitments of the magnitude required cannot be negotiated, drafted and executed within an artificial 30 day time-frame.
- Finally, the FCC should not anticipate the marketplace. All applicants will have to go to the financial markets for funding. None will rely on existing corporate resources for more than a small fraction of overall cost. The marketplace should be allowed to reach its own judgment regarding the merits of competing systems, Success will be reflected in the ability of an applicant to obtain the financing needed to meet stated construction, launch and operational milestones.